Policy Matters

The National Register of Electors

Raising Questions About the New Approach to Voter Registration in Canada

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Biographical note

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Summary

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This paper examines the recent change in the Canadian voter registration regime from pre-election enumeration to a permanent voters list and the impact this change may have on the conduct of elections in Canada. The establishment of the National Register of Electors has received little scholarly attention to date and merits closer scrutiny. The current paper is an initial foray into this area, designed to establish a framework of analysis for a subsequent IRPP report.

Two dimensions are highlighted as requiring systematic analysis. First, there is a need to study the circumstances that led, and fairly quickly so, to the supplanting of the enumeration system by a permanent list alternative. Second, it is appropriate to reflect critically on the effectiveness of the changeover — that is, on how the National Register has fared, what its specific strengths and weaknesses have been in practice (both in absolute terms and relative to the previous enumeration process) and the problems that it has solved and created.

To better understand why a new method of voter registration was adopted, several questions should be considered:

- The discourse of change: What were the shifting perceptions of advantages and disadvantages of a permanent list approach relative to enumeration during the period when the new system was under consideration?
- The political context: How relevant was the new ethos of governance and the emphasis on scaling back government that came to prevail in the 1990s?
- Agencies and agents of change: Did certain institutions and individuals play a pivotal role in promoting the change? How important was the support of Elections Canada and in particular the Chief Electoral Officer, Jean-Pierre Kingsley?

In building a framework for analyzing the efficacy of the National Register, the paper points to several relevant criteria of assessment:

- Coverage, accuracy and costs: Any system of voter registration involves tradeoffs among these elements. These are natural focal points for an evaluation of the National Register.
- Procedures for getting on the list and late registration: To what extent does the government assume responsibility for registering electors? What efforts are made at list revision in the run-up to an election?

- Privacy and confidentiality: Inclusion on the register provides Elections Canada with confidential information about citizens. Concerns over access and usage of these data should be considered.
- Impact on the electoral process: The register cuts the time needed to administer elections, allowing for shorter campaign periods. The costs and benefits of such changes need to be assessed.
- Impact on voter participation: Two matters ought to be raised. One is the potential impact of the new registration system on the overall level and calculation of voter turnout. The other is the participation inequality that may arise if the register involves procedures that make it less likely that certain segments of the population will vote in elections.

The paper concludes with a brief postscript that acknowledges that the federal election on November 27th of this year will provide an important opportunity to evaluate the effectiveness of the National Register of Electors.

Résumé

Dans le présent essai, l'auteur étudie la récente transformation du système canadien d'enregistrement des électeurs, en vertu de laquelle le recensement périodique (naguère effectué avant chaque élection) a fait place à l'établissement d'une liste permanente des électeurs. L'auteur examine ensuite les effets que cette modification entraîne dans le déroulement des élections au Canada. La création du Registre national des électeurs, malgré le peu d'intérêt qu'il a suscité jusqu'ici, mérite un examen approfondi. Il s'agit de formuler ici un cadre d'analyse, en vue d'un rapport à paraître ultérieurement sous l'égide de l'IRPP.

Deux aspects de la question appellent une analyse particulièrement systématique. Premièrement, il convient d'étudier les circonstances qui ont entraîné le remplacement — plutôt brusque — du système de recensement électoral par celui de la liste permanente des électeurs. Il y a lieu, deuxièmement, de porter un regard critique sur les effets de ce changement : de s'interroger sur le fonctionnement du nouveau Registre national, sur les forces et les faiblesses que sa pratique a révélées, sur les problèmes qu'il a résolus et sur ceux qu'il a fait naître — aussi bien en lui-même que par rapport au procédé de recensement jusque-là en vigueur.

Pour mieux comprendre les raisons qui ont milité en faveur du nouveau régime, arrêtons-nous aux questions suivantes :

- La justification du changement : Au cours de l'étude du nouveau système, quels avantages et quels inconvénients lui a-t-on reconnus par rapport à l'ancien, et comment cette perception a-t-elle évolué ?
- Le contexte politique : Dans quelle mesure la nouvelle conception du rôle gouvernemental et l'insistance sur l'amenuisement de ce rôle au cours des années 1990 influencèrent-elles cette réforme ?
- Les facteurs et les acteurs du changement : Certaines institutions et certaines personnes ont-elles joué un rôle clé dans la promotion du changement ? Dans quelle mesure Élections Canada et en particulier Jean-Piere Kingsley, directeur général de cet organisme, ont-ils favorisé l'adoption du changement ?

Dans la définition d'un cadre d'analyse qui permette de juger l'efficacité du Registre national, l'auteur relève plusieurs critères d'évaluation :

- Universalité, précision et coût : Tout système d'enregistrement des électeurs suppose des compromis entre ces divers éléments – qui deviennent autant de critères incontournables dans l'évaluation du Registre national.

- Procédure d'inscription initiale et procédure d'inscription ultérieure : Quelle responsabilité le gouvernement assume-t-il quant à l'inscription des électeurs ? Quels efforts déploie-t-il pour assurer la révision de la liste au cours d'une campagne électorale ?
- Secret et confidentialité : L'inscription des électeurs au Registre fournit à Élections Canada des renseignements confidentiels sur les citoyens. Il convient donc de se demander qui aura accès à ces renseignements et quel usage sera fait de ceux-ci.
- Effets sur le processus électoral : L'existence du Registre réduit le temps nécessaire à l'administration des élections et permet ainsi d'abréger la durée des campagnes électorales. Il convient donc d'évaluer les avantages et les coûts inhérents à de tels changements.
- Effets sur la participation au scrutin : Deux questions se posent ici. La première concerne l'effet possible du nouveau mode d'enregistrement sur le niveau d'ensemble de la participation au scrutin et sur le calcul de cette participation. La deuxième question concerne l'inégalité que l'on pourrait observer dans la participation au scrutin, si la procédure d'inscription au Registre compromet la participation de certains segments de l'électorat.

Dans une brève postface, l'auteur reconnaît que l'élection fédérale du 27 novembre 2000 nous fournira une bonne occasion d'évaluer l'efficacité du Registre national des électeurs.

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Introduction

On December 18, 1996, Bill C-63[1] received Royal Assent, paving the way for the establishment of a permanent voters list to govern the registration process for electoral events at the federal level in Canada. The National Register (formally, the National Register of Electors) was effectively established with a final house-to-house enumeration undertaken in April of 1997, a compilation that formed the preliminary list of electors for the ensuing June election. As an "open list" or "continuous" approach, the permanent system provides opportunities to individuals to become registered both during an election (or referendum) campaign, through revision, and between electoral events, when the register is updated through the incorporation of new information.[2] The principal sources for the latter are federal departments, the Canada Customs and Revenue Agency (formerly Revenue Canada) and Citizenship and Immigration Canada, as well as provincially based motor registration and vital statistics agencies. Moreover, a significant number of provinces have recently made similar changes and, in doing so, have come to join British Columbia, which exceptionally has long relied on a permanent list. The provinces of Alberta, Ontario and Quebec have each now held one election using permanent lists, while Newfoundland has employed its register, created only at the end of last year, in a by-election. For its part, New Brunswick amended its election law in 1998 to allow the province to establish eventually its own permanent list system. The trend in Canada towards the adoption of permanent lists or voter registers is an unmistakable one.

What has been replaced at the federal level and in many provinces is the election-specific or post-writ enumeration method that had previously been the prevalent approach to voter registration in the country and that had uniquely defined Canadian practice.[3] It entailed a house-to-house canvassing by enumerators (as many as 110,000 for federal electoral events) who determined and recorded the qualifications of voters, thereby generating the preliminary list of electors. Of critical importance, the assembling of names was undertaken only for the contest at hand and only once the writ had been issued. Over the years, enumeration was repeatedly hailed as a highly effective method of registration, one that produced an up-to-date and accurate list of electors and, moreover, one that did so "at relatively low cost."[4] This positive appraisal was readily evident, at least at the federal level, in a series of reports that specifically affirmed the enumeration alternative over permanent list options.

The first relevant statement was a 1937 commentary by a House of Commons committee[5] on the ineffectiveness of the permanent list established in 1934 and used in the 1935 election. This "closed list" approach (with annual

revisions during a limited six-week period) had been implemented to replace an enumeration system established in 1930, the first election to be based fully on enumeration. The permanent list, however, was widely regarded as a failure and did not endure beyond that single election. The Commons committee noted that it was "obsolete within six months" and that only with great difficulty "could the lists of electors be brought up to date and thoroughly purged."[6] Years later, in 1968, the Canadian Representation Commissioner weighed the enumeration system against the Australian model, which is based on a continuous (and compulsory) registration approach, and, in the main, concluded that this would be too expensive an alternative to pursue.[7] For its part, the 1986 White Paper on Election Law Reform contemplated the alternatives of both permanent lists and annual enumerations (held outside of election periods),[8] but ended up solidly recommending the retention of the enumeration approach. Permanent lists, it was stressed, would be too costly and "would not necessarily be more accurate, more complete or more up-to-date than the present enumeration system unless strict controls or compulsory registration were imposed."[9] The latter was judged to be unacceptable to Canadians and concerns were also raised about the intrusion on privacy that might accompany the keeping of permanent records.

Still, the White Paper did mention arguments on behalf of a permanent list, including the possibility of shortening the campaign period and eliminating duplication of the registration effort across jurisdictions, and this may have stimulated some critical reflection. As well, it referenced problems with the enumeration system even if this was done in the context of making recommendations to improve its operation. One important concern alluded to was the difficulty of finding sufficient numbers of qualified enumerators, a problem that had been slowly emerging over the years and that continued to be evident in the subsequent 1988 election. Indeed, the Chief Electoral Officer of Canada's 1989 Statutory Report detailed various discretionary measures that he regarded as necessary in order to circumvent the shortages.[10]

Another report that year, the 1989 Auditor General's Report, may also have contributed to turning around traditional thinking that the Canadian-style enumeration system was superior to a permanent list approach. That publication heavily criticized Elections Canada for not having adapted computer technology in its operations, including in its approach to enumeration, and as well suggested as a broad point (without providing any details) that significant savings could be realized if the different jurisdictions used technical innovations to develop common procedures.[11] The Royal Commission on Electoral Reform and Party Financing (RCERPF), set up the same year, gave more concrete expression to what was a rapidly emerging idea that advances in computer and information

technology could make a permanent list approach viable. Launched with a mandate that included deliberating on the advisability of a register,[12] the Commission went on to emphasize the disadvantages of the enumeration system and to argue that cooperation among the different governments in the use of common lists would lower registration costs and, importantly, would do so without compromising the levels of coverage and accuracy attained.[13]

Although the Commission ended up proposing that federal officials rely on lists maintained by the provinces, the idea that was to develop within Elections Canada over the next couple of years was a national list sustained by the agency itself. The viability of establishing such a register was affirmed by a project team set up within Elections Canada in January of 1995. The team's efforts, it was judged, demonstrated that "such a register would be both feasible and cost-effective, could shorten the electoral period by eliminating enumeration, and could significantly reduce costs and duplication of effort across Canada."[14] Moreover, there were assurances, as there had been in the Commission's conclusions, that privacy and confidentiality concerns about government-held data banks could be allayed. These were the main lines of argument that Jean-Pierre Kingsley, the Chief Electoral Officer of Canada, frequently employed as he promoted a changeover to a national register. Appointed in 1990, he appeared quickly to champion change and to believe firmly that "the time had come to modernize voter registration."[15]

The National Register constitutes a fundamental shift in the way citizens are registered for federal electoral events in Canada, yet this important development has largely escaped scholarly attention. Two areas of understanding would appear to stand out as meriting systematic analysis. First, there is a need to examine the circumstances that led, and fairly quickly so, to the supplanting of the enumeration system by a permanent list alternative. While most of the factors that explain the changeover are not difficult to identify (and would certainly include those already mentioned or alluded to), they have yet to be gathered together in a systematic account that contemplates their points of intersection and interaction. Second, it is appropriate to reflect critically on the effectiveness of the changeover itself. An assessment of how the National Register has fared, what its specific strengths and weaknesses have been in practice (both in absolute terms and relative to the previous enumeration process) and the problems that it has both solved and created would appear to be a timely endeavour.

The broad aim of this paper is to help encourage reflection on the National Register, directed at understanding the advent of the new system and gauging its effectiveness. It does this primarily by pointing out what preliminary research suggests to be the prominent considerations in these two lines of inquiry.

Typically, this will consist of identifying questions that are most likely to yield significant insights about the National Register. At the same time, and as an initial point of departure, the present exercise provides a backdrop to the exploration of these two areas by drawing out from the comparative literature and experiences some useful initial characterizations about registration systems in general. It then briefly reviews a few broader aspects of the specific Canadian case in advance of turning to consider the origins and effectiveness of the National Register. The issues canvassed in this initial paper will be taken up in greater detail in a subsequent IRPP report.

Background Considerations

Some Generalities About Voter Registration Systems

While it is self-evident that any systematic analysis will need to be steeped in the particulars of the Canadian case, important insights and conclusions are also evident from a more general consideration of the nature of voter registration. In this vein, an appropriate point of departure is the observation that, as with most processes designed to regulate aspects of political life, registration systems are associated with purposes and guiding principles that are subject to some level of debate. To be sure, all commentators would probably agree that voter registration systems are designed to mediate between the statutory qualifications that citizens must meet in order to vote and the actual exercise of the franchise, and that in doing so they should ensure accessibility to the vote for those eligible and, at the same time, prevent voter fraud and abuse, including multiple voting, from taking place.[16] Some would add to these two core objectives other requirements, such as that the system should instill confidence in the electoral process,[17] support other functions of the electoral system (for example, the mobilization of voters),[18] or ensure privacy and confidentiality.[19] Cost efficiency has also been suggested as an objective of registration systems.[20]

A more important source of debate is rooted in differing views on the relative priority that should be attached to various objectives and principles. These disputes are naturally heightened for two simple reasons. First, it may not always be possible to attain one objective without compromising another. The existence of necessary "tradeoffs" is perhaps most evident in connection with the promotion of the two primary purposes, accessibility and the curbing of fraud. As a general rule, the more stringent the measures designed to enhance control, the greater the likelihood that registration coverage will be reduced and that eligible electors will be excluded.[21] Cost considerations, including most fundamentally

the amount of public money to be spent, also animate debate. They are typically considered in juxtapostion with other goals or principles; thus, certain additional cost outlays may be more or less palatable to some observers, depending on the particular objective(s) to be realized. Second, differences in priorities typically reflect larger value premises and thus entail competing philosophical principles. For example, arguments about the relative importance of accessibility versus control are driven, in part at least, by alternative views about how much citizen involvement in democratic polities is desirable and should be encouraged. Another illustration of the relevance of values is given by Kimberling, who notes the diametrically opposed arguments that can be made about how much of the "costs" of registration should be borne by the individual relative to the state:

> *At one extreme are those who argue that inasmuch as we are dealing with a fundamental right and, indeed, the very nature of the democracy itself, the voter registration system should be 'front-loaded' with the government bearing the bulk of the costs. At the opposite extreme are those who argue that the right to vote is accompanied by a duty so that citizens may be reasonably expected to bear at least some of the cost burden (usually in terms of the time and effort required to register).*[22]

Other competing principles are evident with regard to how much importance should be attached to the desire for privacy and confidentiality on the part of electors.

If normative-based differences ensure that there can always be debate over registration objectives and standards, the marshalling of evidence can only resolve matters up to a point. While it is easy to identify fairly concrete indicators — such as coverage, accuracy and costs — as helpful measures for evaluating registration systems, in practice the available information does not always serve the purposes at hand or facilitate comparisons. For instance, in the absence of any independent list of eligible electors, coverage must be estimated, typically by relying on census data. But as important as such data are, they always are subject to some unreliability and, moreover, require assumptions and estimations to deal with time extrapolations and to obtain population counts appropriately based on both age-eligibility and, in an immigrant country such as Canada, citizenship-eligibility. With regard to costs, as Courtney and Smith remark, "what is included as an enumeration or registration cost in one jurisdiction is not necessarily calculated in the same manner in another."[23] In general, election-specific enumeration costs are mainly absorbed at one point in time while permanent systems involve ongoing

expenditures. Indeed, in some, especially European, countries these latter costs are buried within those associated with maintaining broader population registries (typically at the local or commune level). Such general concerns, in fact, led Courtney and Smith to be somewhat circumspect about the conclusions that could be reached from their own comparative cost evaluations.[24]

Nevertheless, there are some generalizations about voter registration that can be set out, five of which deserve particular emphasis. First, accessibility to the vote through the registration process is profoundly affected by whether voters are automatically entered on the list of electors or must take some initiative to be included.[25] Registration coverage is significantly enhanced to the extent that the state assumes a major responsibility for registering electors and minimizes what it requires of citizens to undertake. The American case, where notoriously low registration numbers in most states are largely due to the onus to register being directly placed on citizens, provides simple but dramatic testimony to this effect.[26] Second, both coverage and accuracy risk being compromised if the list is not compiled close to the election and/or is not regularly updated.[27] Permanent systems that are based on a "closed list" approach are the most problematic in this regard. Not only was this readily apparent in Canada's brief experience in the 1930s, but the British case serves as a continuing reminder of the enormity of both errors of exclusion and inclusion that are inherent in such an approach.[28]

The fact that such systems provide for very little revision points to a broader, third point: registration effectiveness is not only determined by the general form employed but also by the entire set of specific measures and procedures that govern the process. The opportunities for, and the ease of, getting on the list as the election approaches, as well as election day registration itself, are especially important for fostering coverage. A fourth generalization overlaps with the first but deserves to be singled out regardless. Voter turnout is generally affected by whether the prevailing institutional features and procedural measures that structure electoral participation are facilitative or inhibitive[29] and thus will be diminished as individuals are required to exert more time and effort to register. A final truism is that the impact of the registration system is not neutral across social categories. More demanding regimes will generally lead to under-registration and lower levels of vote turnout on the part of those who are less well-off or who are less favoured (e.g., in terms of income, occupation and education). The resulting participation inequality between the "haves" and "have-nots," it is widely accepted, translates into imbalances in political representation and influence.[30] Similar participation and political distortions can arise from the failure of permanent voters lists to include those

who have only recently reached voting age or to list correctly individuals who have been mobile, particularly tenants and students.

Some Initial Considerations About The Canadian Case

Many of these generalizations would figure as important background considerations in any extended analysis of the nature and impact of registration systems in democratic polities. The specific Canadian case, itself, suggests some additional broad aspects that should be kept in mind as part of any inquiry into the origins and nature of the National Register. Two in particular ought to be emphasized at this juncture, the character of the discourse that accompanied the move away from the enumeration system and the place of the provinces in any analysis. With regard to the former, it is evident that there is a need to detail the long-time positive verdict on the enumeration system and then take into account how the language and arguments shifted to focus on its problems, and then how these disadvantages became increasingly juxtaposed against the advantages and opportunities associated with the use of a register. Such a treatment would assist in understanding the development of support for a permanent list approach and also prove relevant in the evaluative analysis, since comparative claims about advantages and disadvantages form a critical part of the debate.

A consideration of the language and arguments that surrounded the advent of the register must also include the "principles" that were claimed to guide the new project. Appearing before the Senate Committee on Legal and Constitutional Affairs as it deliberated over Bill C-63, Kingsley laid out six key principles, and in doing so made a point of emphasizing that they were basically the same as those that informed the RCERPF's approach:

> *First, registration should primarily be a state responsibility...[;]*
> *Second, voters should be able to register after the election writs are issued, including on election day...[;]*
> *Third, a register of voters should be adopted only if it is nearly as efficient as an enumeration [i.e., in terms of the quality of the information]...[;]*
> *Fourth, voters should have the right not to be registered and not to inform the state of their movements...[;]*
> *Fifth, voters should have the right to have their names or addresses deleted from a voters register at any time...[;]*
> *Six, once the information has been entered into the voters register, it must be managed according to the strictest criteria for preserving privacy and confidentiality....*[31]

These principles served to both justify and promote a change in the registration regime and they remain as self-proclaimed benchmarks that allow for the evaluation of its performance.

Still, any discussion of these principles and the specific arguments on behalf of change should be sufficiently broad as to include as much critical perspective as possible. As a general rule, it would be important to provide sufficient balance in characterizing the different sides of the debate. This should be done even though it is difficult to imagine any return to the basic enumeration system or indeed of any slow-down in the general momentum towards the adoption of permanent systems in Canada. At the very least, there is inherent intellectual merit in portraying the debate in as complete a fashion as possible. Moreover, there may be practical dimensions to such treatment, insofar as some of the positive features evident in the enumeration system might be blended into the permanent list approach. Certainly, it is by no means obvious that register systems perform flawlessly and can not be improved upon. For their part, even the most staunch defenders of the enumeration system recognized the need to initiate changes to deal with problems and enhance its effectiveness. The RCERPF itself offered interim recommendations for improving the use of the enumeration system even as it advocated moving towards a permanent list approach.[32] A more whole-hearted endorsement of maintaining the traditional system was made by Courtney and Smith, who underscored its benefits — including some not always acknowledged by critics — and suggested some additional ameliorative measures.[33]

It would also be important to capture the ways in which this debate unfolded in the deliberations over change that took place at the provincial level. Provinces are also relevant focal points because, as envisaged by Elections Canada, a significant level of cooperation has come to characterize the interactions between federal officials and their provincial counterparts. This includes not only the actual sharing of national list information with provinces (and with municipalities and school boards)[34] but other endeavours as well, such as the acquisition of data from provincial enumeration efforts and, more generally, the transference of information updates from provincially based motor registration and vital statistics agencies. For instance, rather than carry out the "final enumeration" in the provinces of Alberta and Prince Edward Island in 1997, Elections Canada chose to purchase the enumeration lists that had been recently compiled in provincial elections.

It is also important to realize that such exchanges and more generally the cooperative efforts that have taken place have both reflected and helped engender a significant degree of cross-level harmonization in the electoral process.

Thus, for example, the acquisition of the voters list in Alberta and Prince Edward Island was facilitated by a realignment of their polling divisions to match federal boundaries. More dramatically, Ontario switched to a permanent list system in advance of its June 1999 election and used the federal register to establish a preliminary list of electors. This move was helped along by an earlier legislative initiative that actually reduced the number of provincial electoral districts so that they equalled the number of federal constituencies. More importantly, the Ontario election provides the potential for analysis of the performance of the National Register since it was employed to generate the preliminary list for the provincial election. As noted below, there are some other features of the electoral contest in that province that warrant giving it specific attention.

What Explains the Advent of the National Register?

Problems, Solutions and the Discourse of Change

One of the main thrusts of any examination of the forces and circumstances that ultimately led to a change in registration regimes should be the shifting perceptions of advantages and disadvantages of a permanent list approach relative to the enumeration system. Naturally, key in such a consideration is the increased stress on what came to be regarded as problems with enumeration and how they could be solved by moving to a new register-based regime. The relevant discourse for examination also includes the pledges and commitments that were made as part of the articulation of "guiding principles" that would apply to the operation of the register.

Any critical analysis should contemplate the degree to which the language actually reflected the underlying reality. Were the difficulties with enumeration and/or the remedies associated with a permanent list accurately portrayed by those seeking a change? How well did the available evidence substantiate the claims made and conclusions drawn? A related query is why a modified enumeration regime, one that might meet acknowledged problems, was not given more consideration than it received. Given the multiple factors at play, there should also be some assessment of the relative importance attached to the different parts of the arguments for change. Such an exercise would also presumably help reveal what were the truly dominant value premises that drove the changeover and which of them were given far lesser consideration.

The Political Context

The impact of arguments for change also needs to be assessed by taking into account how the discourse was conditioned by particular aspects of the political environment of the time. Above all, it would be important to consider the relevance of the new ethos of governance that was initially given voice in the 1980s but that firmly came to prevail in the 1990s. Summed up by the slogan "getting government right" and concretized through "Program Review," this approach placed a premium on scaling back government and reducing expenditures to the greatest extent possible. Presumably, the idea of seeking economies in voter registration, and the companion notion of enhancing savings through cooperative endeavours with other jurisdictions (read: reducing duplication), resonated especially loudly in the new administrative climate.[15]

Context would also appear to matter in the form of more discrete and concrete events. A quite tangible one that needs consideration is the occurrence of the 1993 general election not too long after the 1992 referendum on the Charlottetown Accord. The relatively close sequencing of the two events permitted, outside of Quebec,[16] the enumeration-derived list of electors for the referendum to serve as the preliminary list for the 35th general election, thus foregoing the need for an enumeration. The ability to capitalize on the existing list had the potential to serve as an important precedent that gave credence to the argument about the register's feasibility. The evidence is overwhelming that Kingsley favourably regarded the experience in that vein and made frequent reference to it as he both promoted and explained the adoption of a federal register.[17]

Agencies and Agents of Change

No doubt, another part of the explanation for the advent of the register is bound up with the role played by those who explicitly advocated on behalf of a change of the registration regime. It would certainly be important to situate the impact of the RCERPF, which fairly early on gave the idea of a permanent list some legitimacy, even if the specific recommendation was for provincially maintained lists. Probably more weight needs to be given to the role of Elections Canada, which came to regard a national register as the best alternative for change and then strongly promoted its adoption. Still, research is needed in order to gauge how quickly the commitment to the national register built up and particularly when it became an unequivocal one. Such an understanding might help in assessing the significance of the agency's extensive research into the feasibility of a permanent list. Did that work effectively provide the basis for removing any lingering doubts and reinforce a commitment that was evolving? Or did it provide a rationale and the basis for promoting an idea that had already essen-

tially been decided upon? In either case, it would be important to detail the various concrete steps that Elections Canada took to investigate the viability of a permanent register and then the arguments and evidence it used to sell the idea in front of both the public and especially federal politicians. Finally, all of these lines of investigation should take into account the vitally significant presence of Kingsley who was to become regarded as the register's "most ardent supporter."[38]

How Can the Effectiveness of the National Register be Assessed?

Coverage, Accuracy, Costs

The traditional evaluative criteria of coverage and accuracy, on the one hand, and cost factors, on the other, are natural focal points for any assessment of the effectiveness of the National Register. With regard to the latter, it probably is the case that the elimination of the labour-intensive enumeration system and its replacement with a permanent list system (made effective by the timely availability of computer technology) have translated into substantial cost savings. This reality is likely to set the tone for many parts of any evaluative analysis since it will focus attention on the balance or tradeoffs between financial savings and possible shortcomings of the register, including any reductions in coverage and accuracy. Since there may be more uncertainty about how the quality of the information contained in the register compares with what the enumeration system produced, this would be a key area to investigate. Important sources for doing so are found within the body of research carried out under the auspices of both the RCERPF and Elections Canada. However, some limited primary research, particularly with regard to coverage, may be possible by comparing the numbers of individuals listed in the register with estimates derived from census data, taking into account eligibility based on both age and citizenship. The investigation of data quality, if possible, should also take into account the process by which the register is kept up-to-date between elections. This would be important to do given that the standing expectation is for about 20 percent of elector information to change each year as a result of address changes (16 percent), new 18-year-olds (two percent), new citizens (one percent) and deaths (one percent).[39]

Procedures for Getting on the List and Late Registration

Additional vantage points for evaluation are suggested by the principles that were expressed as guiding the functioning of the register. State initiative —

that is, the commitment "by the electoral system to reach out to the electors, making it easier for all qualified electors to register"[40] — can be evaluated through the examination of coverage figures and as well by examining information-updating processes. It can also be judged by considering the specific measures individuals are required to take to get on the list and how many in fact avail themselves of such procedures, particularly during the formal revision period when campaign-induced political interest is normally at its peak. The proactive special measures that Elections Canada has at its disposal to encourage and facilitate registration would also be important to consider. This includes the "elector outreach activities" (such as sending letters to new electors having just turned 18 years of age, spelling out their right to vote and requesting their consent to have their names added to the National Register) and initiatives undertaken during the campaign itself (such as concentrating on specific areas of an electoral district for what is referred to as "targeted revision").

Privacy and Confidentiality

Privacy and maintaining the confidentiality of information are also regarded as commitments guiding the use of the National Register. Elections Canada claims that these principles are upheld by electronic and procedural safeguards and by statutory provisions. Thus, the register may only be used for electoral purposes and individuals have the right to access their personal information, to be excluded from the register (without foregoing the right to register subsequently), to request that their personal information not be transferred to other jurisdictions and to provide "active and informed consent" before any of their information can be transferred to Elections Canada from other federal sources.[41] While an assessment of the National Register along these lines would appear to be straightforward and non-controversial, there may in fact be some wrinkles to investigate. For example, Elections Canada was embarrassed last year when it came to light that the agency had lost a computer tape sent by Manitoba that contained confidential (motor vehicle-based) information on 675,000 of the province's residents.[42]

Impact on the Electoral Process

The impact that permanent lists have on the electoral process in general, and on electors, candidates and parties in particular, provides another dimension for assessment. Many of the effects are obvious and are easily described and commented upon, such as, at the federal level, a shortening in the minimum campaign period from 47 to 36 days, a change that was regarded as another distinctive (though related) feature of Bill C-63. At the same time, the fact that the reg-

ister can automatically generate the preliminary list at the very outset of the campaign is argued to provide for electors an extended revision period and for candidates and parties an expenditure regime that is in place earlier. Still, an interesting question perhaps worth exploring is whether a reduced campaign period and other such changes are strictly dependent on the existence of a register. After all, the RCERPF regarded as possible, and suggested as part of its short-term recommendations, a minimum 40-day campaign period within the context of an, albeit modified, enumeration system. More basic reflections here might include some of the traditional arguments that have been raised against having an overly short campaign period, including the concern that it privileges incumbents who are more known to the electorate.

Impact on Voter Participation

Finally, it seems appropriate to inquire about the impact of a permanent list on two aspects of voter participation. One involves examining how the new registration system affects overall voter turnout levels in Canada, a question that may be of more than passing interest in light the country's low (national) turnout relative to most other democracies and declining participation in recent elections.[43] For instance, turnout figures can be expected to be deflated to the extent that registers are insufficiently updated and thus both list individuals more than once (because they have changed addresses) and contain the names of those who have passed away. Such errors of inclusion clearly characterized the 1993 electors list, which had been taken from the 1992 referendum. In fact, one persuasive study has estimated that the real turnout rate for the 1993 election was approximately 73 percent rather than the reported official figure of 69.6 percent.[44]

The second and arguably more important aspect pertains to the role that permanent voters lists may play in increasing participation inequality, to the extent that they involve procedures that make it more difficult for the less well-off to participate. Interestingly, some critics have claimed that such biases, along with perhaps an artificially low turnout rate, were features of the last provincial election in Ontario,[45] where the National Register provided the basis for the preliminary list. The argument reasons that this meant Ontario began the election with an outdated electors list and, moreover, took inadequate steps to compensate for this fact. The lower than average turnout rate for the election (58 percent compared to 65 percent for 1995), in spite of the strong party competition and ideological debate marking the contest, was attributed to problems such as (registered) individuals who had moved from their original addresses but who were not contacted about voting in their new ridings. These persons were more likely to be tenants, younger individuals and generally those with lower incomes. But,

importantly, such individuals, it was pointed out, were also more likely not to have been on the National Register to begin with because, for example, they had just turned 18 and/or had never filed a tax return. These latter omissions would not have affected the official turnout rate but they would have contributed to imbalances in participation.

These patterns of under-registration and lower turnout, moreover, were regarded by critics as having distinctive partisan consequences that worked to help the Conservatives gain re-election. This possibility makes the Ontario election all the more significant as a case study insofar as it underscores the importance of investigating the linkages that can exist between registration systems and participation and electoral outcomes. The Ontario case also provides an opportunity to consider the distinctive roles that the National Register and the province's revision efforts may have played in possibly exacerbating participation inequality. What is also suggested is a need to consider seriously what lessons might be extracted to ensure that registers operate in a way that is fair to all potential voters.

Conclusion

Registration regimes are not altered very frequently. Recently, however, Canada replaced its post-writ enumeration approach, which had a long tradition of usage in federal elections, with a permanent list system. The new National Register (based on an open-list approach) is notable not only because it embodies a fundamental change but as well because of the speed with which it moved from proposal to implementation stages. The other noteworthy aspect about the changeover is that it has yet to receive the scholarly attention that one would normally expect given the significance of such a shift.

This paper has been principally motivated to remedy this situation by drawing attention to two lines of inquiry that would figure prominently as part of any initial engagement. One involves focussing on the reasons for the advent of the register itself, the other entails an evaluation of the effectiveness of the new system. For each of these two theme areas, this paper has set out what are believed to be the prevalent considerations that should be brought to bear in subsequent, in-depth research (to be published in a subsequent IRPP report). It may very well be the case that such analysis will reveal other facets of the changeover that have not been anticipated here. Still, the need to begin the process of understanding both the origin and nature of the National Register is a pressing one. Registration regimes directly affect the ability of citizens to partici-

pate in elections and provide the basis for ensuring that elections are conducted with integrity. The manner in which democratic states provide for the registration of voters should be given the attention that it deserves as an integral component of the electoral process.

Postscript

The recently held general election on November 27th constitutes a significant opportunity to judge further the effectiveness of the new registration regime. This is particularly the case with regard to an evaluation of its performance in providing a preliminary list of voters that is substantially comprehensive and accurate in coverage. While the National Register was used to generate the preliminary list for the June 1997 election, the changeover had only occurred a few months earlier and, more importantly, had been largely derived from a final enumeration. Now that a second election has taken place, the coverage and accuracy of the National Register can be more appropriately assessed. Nearly three and a half years later, its performance as an open-list system — one designed to maintain a register that incorporates a continuous flow of updated voter information — can be meaningfully tested for the first time.

The recent election also marks an opportunity to examine the revision effort that was carried out by Elections Canada during the campaign itself, above all as it was aimed at registering eligible voters who were not on the list. Registering during the campaign period was always regarded as an integral component of the new approach, a way of compensating for the inevitable limitations inherent in the maintenance of a register. At the same time, this was also the first election where large numbers of Canadians, unaware of the change in registration regimes, expected to be enumerated. Election Canada's extensive efforts, including its "Are you on the list?" televised advertisements, were obviously designed to inform Canadians, the registered as well as the unregistered, about the new arrangements. How effective the agency was in this regard and whether the anecdotal reports of confusion and problems that surrounded the registration process were isolated incidents or were indicative of widespread deficiencies are questions that need to be explored.

Notes

1 *An Act to amend the Canada Elections Act, the Parliament of Canada Act and the Referendum Act.*

2 By contrast, "closed list" approaches, such as the one traditionally employed in Britain, have a closing date that typically makes it difficult for individuals to be registered until a new list is prepared. See, for example, Terrence H. Qualter, *The Election Process in Canada* (Toronto: McGraw-Hill, 1970), pp. 18-22; and J. Patrick Boyer, *Election Law in Canada: The Law and Procedure of Federal, Provincial and Territorial Elections*, Vol. 2 (Toronto: Butterworths, 1987), pp. 413-15.

3 Histories of voter registration in Canada are provided by Norman Ward, *The Canadian House of Commons: Representation*, 2nd ed. (Toronto: University of Toronto Press, 1963), chap. 10; Boyer, *Election Law in Canada*, pp. 416-24; and John C. Courtney and David E. Smith, "Registering Voters: Canada in a Comparative Context," in Michael Cassidy (ed.), *Democratic Rights and Electoral Reform in Canada* (Toronto: Dundurn Press, 1991), pp. 346-58. Provincial and territorial variations are also considered by Boyer, *Election Law in Canada*, pp. 424-25, 452-527; and Courtney and Smith, "Registering Voters" in Cassidy (ed.), *Democratic Rights and Electoral Reform*, pp. 372-89. A fairly up-to-date listing of the legal provisions governing voter registration at both levels of government is set out by Alain Pelletier with Marie-Ève Poulin, Nathalie Nye, Tim Mowrey and Marc Tascherau, *Compendium of Election Administration in Canada* (Ottawa, 2000), part D.

4 Qualter, *The Election Process in Canada*, p. 22.

5 *Report of Special Committee on the Elections and Franchise Acts*, 1937.

6 *Report of Special Committee*, cited in Ward, *The Canadian House of Commons*, p. 203.

7 Representation Commissioner, *Report on Methods of Registration of Electors and Absentee Voting* (Ottawa, 1968).

8 The latter approach was regarded as being too costly, particularly given that it produces some lists that are never used. *White Paper on Election Law Reform*, (Ottawa, 1986), p. 42.

9 *White Paper on Election Law Reform*, p. 39.

10 *1989 Report of the Chief Electoral Officer of Canada*, Ottawa (1989), p. 33.

11 *1989 Report of the Auditor General of Canada*, www.oag-bvg.gc.ca/domino/reports.nsf/html/8910ce.html, pp. 8-10, 20.

12 Royal Commission on Electoral Reform and Party Financing [hereinafter, RCERPF], *Reforming Electoral Democracy*, Vol. 2 (Ottawa, 1991), chap. 4.

13 For the purposes of this paper, it suffices to define coverage as the ratio of the number of names on the electors list to the total number of eligible persons actually residing in a given area (constituency, country, etc.), and accuracy as the ratio of the number of correctly registered names and addresses to the total number of persons on the list for the area. These are essentially the working definitions used by the RCERPF, *Reforming Electoral Democracy*, Vol. 2, p. 138.

14 *Report of the Chief Electoral Officer of Canada on the 36th General Election*, (Ottawa, 1997), p. 12.

15 *Report of the Chief Electoral Officer of Canada on the 36th General Election*, p. 11.

16 More generally, that they should "prevent electoral abuse and fraud by individuals, special interest groups, political parties and governments." Courtney and Smith, "Registering Voters" in Cassidy (ed.), *Democratic Rights and Electoral Reform*, p. 344.

17 Courtney and Smith argue that the system should "be widely accepted as an authoritative and legitimate means of cataloguing the electoral population and

settling disputes." "Registering Voters," in Cassidy (ed.), *Democratic Rights and Electoral Reform*, p. 344. Qualter suggests that "the lists should be compiled and published in a manner that gives the voters confidence that they are indeed accurate and honest." *The Election Process in Canada*, p. 21.

18 The registration of voters "also assists candidates and political parties in canvassing voters and getting their supporters to vote. In these indirect ways, the voters list helps mobilize voters, promoting political participation and voting itself." RCERPF, *Reforming Electoral Democracy*, Vol. 2, p. 1.

19 RCERPF, *Reforming Electoral Democracy*, Vol. 2, p. 113.

20 Qualter, *The Election Process in Canada*, p. 21. Note as well that Valentine Herman with Francoise Mendel point out that the electoral register should also "act as a record of voting in systems where voting is compulsory." *Parliaments of the World: A Compendium* (London: Macmillan, 1976), p. 39.

21 William C. Kimberling, "A Rational Approach to Evaluating Alternative Voter Registration Systems and Procedures," in John C. Courtney (ed.), *Registering Voters: Comparative Perspectives, Report of a Round Table on Voter Registration* (Cambridge: Center for International Affairs, Harvard University, May 1991), p. 8.

22 Kimberling, "A Rational Approach," in Courtney (ed.), *Registering Voters*, p. 9.

23 Courtney and Smith, "Registering Voters," in Cassidy (ed.), *Democratic Rights and Electoral Reform*, p. 345.

24 Courtney and Smith, "Registering Voters," in Cassidy (ed.), *Democratic Rights and Electoral Reform*, pp. 345-46.

25 Herman with Mendel, *Parliaments of the World*, p. 43.

26 See, for example, G. Bingham Powell, Jr., "American Voter Turnout in Comparative Perspective," *American Political Science Review*, Vol. 80, no. 1 (March 1986), pp. 17-43.

27 Herman with Mendel, *Parliaments of the World*, p. 40.

28 Michael Pinto-Duschinsky and Shelley Pinto-Duschinsky, *Voter Registration in England and Wales: Problems and Solutions* (London: Constitutional Reform Centre, 1987). See also Michael Pinto-Duschinsky's "Electoral Registration in Britain: Is There a Case for Reform?" in Courtney (ed.), *Registering Voters*, pp. 12-18; and Ivor Crewe, "Electoral Participation," in David Butler, Howard R. Penniman and Austin Ranney (eds.), *Democracy at the Polls: A Comparative Study of Competitive National Elections* (Washington, DC: American Enterprise Institute for Public Policy Research, 1981), pp. 232-33.

29 Powell, Jr., "American Voter Turnout." See also Robert W. Jackman, "Political Institutions and Voter Turnout in Industrial Democracies," *American Political Science Review*, Vol. 81, no. 4 (December 1987), pp. 405-23; and Jackman and Ross A. Miller, "Voter Turnout in the Industrial Democracies During the 1980s," *Comparative Political Studies*, Vol. 27, no. 4 (January 1995), pp. 467-92.

30 For example, Arend Lijphart, "Unequal Participation: Democracy's Unresolved Dilemma," *American Political Science Review*, Vol. 91, no. 1 (March 1997), pp. 1-14.

31 *Proceedings of the Standing Senate Committee on Legal and Constitutional Affairs*, December 10, 1996, www.parl.gc.ca/english/senate/com-e/lega-e/42ev-e.htm, p. 2.

32 RCERPF, *Reforming Electoral Democracy*, Vol. 2, pp. 14-22.

33 Courtney and Smith, "Registering Voters," in Cassidy (ed.), *Democratic Rights and Electoral Reform*; see also David E. Smith, "Federal Voter Enumeration in Canada: An Assessment," in Courtney (ed.), *Registering Voters*, pp. 35-40.

34 By early 1999, data-sharing agreements were in place with nearly 50 municipal (mostly) and school board jurisdictions. Office of the Chief Electoral Officer, *Estimates: Performance Report For the Period Ending March 31, 1999* (Ottawa, 1999).

35 In fact, in 1998 the project team at Elections Canada that developed the register won the Award for Leadership in Service Innovation presented by the Association of Professional Executives of the Public Service of Canada and sponsored by Deloitte Consulting. A publication by the latter, "Elections Canada — National Register of Electors," emphasized how the register "eliminates the need for time consuming and expensive door-to-door enumeration." (Ottawa, no date), p. 1.

36 Quebec conducted the referendum under its own rules and procedures, without any federal involvement. Correspondingly, it was necessary for federal election officials to conduct an enumeration in that province for the 1993 general election.

37 For example, in his *Report of the Chief Electoral Officer of Canada on the 36th General Election*, p. 11.

38 Deloitte Consulting, "Elections Canada — National Register of Electors," p. 9. The Cabinet Minister responsible for electoral reform and the designated liaison person between the Chief Electoral Officer and the Cabinet was Herb Gray, who might also have played a significant role.

39 *Report of the Chief Electoral Officer of Canada on the 36th General Election*, pp. 14-15.

40 Jean-Pierre Kingsley, Chief Electoral Officer of Canada, "Statement to the Media" (Ottawa, October 21, 1996), p. 3.

41 *Report of the Chief Electoral Officer of Canada on the 36th General Election*, p. 13.

42 David Roberts, "Ottawa Loses Private Data on 675,000 Manitobans," *The Globe and Mail*, Tuesday, November 30, 1999, pp. A1, 7.

43 For an examination and discussion of turnout rates in Canada in comparative context, see Jerome H. Black, "Reforming the Context of the Voting Process in Canada: Lessons From Other Democracies," in Herman Bakvis (ed.), *Voter Turnout in Canada* (Toronto: Dundurn Press, 1991), pp. 61-176. The most recent declines in electoral participation are considered by Tony Coulson, "Voter Turnout in Canada," *Electoral Insight*, Vol. 1, no. 2 (November 1999), pp. 18-21. See also Richard Johnston, "Canadian Elections at the Millennium," *Choices*, Vol. 6, no. 6 (September 2000), p. 13.

44 André Blais, Antoine Bilodeau and Christopher Kam, "The Flow of the Vote Between the 1993 and 1997 Elections." Unpublished manuscript. No date.

45 Some critics and their positions are identified in Jim Fewings, "How the Decks Were Stacked Against Democracy," *The Toronto Star*, Monday, May 17, 1999 and in Ian Urquhart, "Reforms Left Voters in the Lurch," *The Toronto Star*, Monday, November 22, 1999.

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